

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

OMNIPOINT HOLDINGS, INC,  
Plaintiff,

v.

THE TOWN OF BEDFORD, ZONING BOARD  
OF APPEALS OF THE TOWN OF  
BEDFORD, ROBERT ELLIS, JEFFREY COHEN,  
DAVID EZEKIEL and LOUISE MAGLIONE  
in their capacities as members of the  
Town of Bedford Zoning Board of Appeals,  
Defendants.

Civil Action No. 04-11722 RWZ

**AGREEMENT FOR JUDGMENT**

This Agreement for Judgment (“Agreement”) is made this 11<sup>th</sup> day of April, 2005, by and among Omnipoint Holdings, Inc. (“Omnipoint”), the Town of Bedford, the Zoning Board of Appeals of the Town of Bedford (the “Board”), and Robert Ellis, Jeffrey Cohen, David Ezekiel and Louise Maglione, as members of the Board (collectively, the “Defendants”). All of the above parties shall be collectively referred to herein as the “Parties.”

WHEREAS, Omnipoint commenced a civil action entitled Omnipoint Holdings, Inc. v. The Town of Bedford, et al., Civil Action No. 04-11722RWZ in the United States District Court for the District of Massachusetts (the “Litigation”) in which Omnipoint asserted claims against the Defendants arising out of the Defendants’ denial of Omnipoint’s application for special permit to install three panel antennas within two “stealth” chimneys, together with three equipment cabinets (the wireless communications facility, hereinafter “WCF”) on the roof of the Best Western Hotel Building at 340 The Great Road, Bedford (“the Site”);

WHEREAS, Omnipoint alleged in the Litigation that the Defendants violated the Federal Telecommunications Act of 1996, 47 U.S.C. § 332(c) which allegation the Defendants denied;

WHEREAS, the Parties wish to avoid further expense in connection with the Litigation and desire to settle and compromise all allegations made in the matters at issue in the Litigation;

WHEREAS, the Parties have agreed to settle the Litigation upon the terms contained herein;

WHEREAS, the Parties agree that the Litigation should be settled forthwith, that there is no just cause for delay, and that a remand of this matter to the Board would serve no useful purpose;

NOW THEREFORE, the Parties, through their counsel, stipulate and agree as follows:

1. Final Judgment shall enter in Omnipoint's favor on Count One of the Complaint in the form attached hereto as Exhibit A, vacating the Board's decision, filed in the Town Clerk's Office on July 8, denying Omnipoint's request to install three panel antennas within two stealth chimneys, together with three equipment cabinets on top of the building located at 340 The Great Road, Bedford, and granting Omnipoint's application for a special permit, which is necessary to allow the installation and operation of Omnipoint's WCF at the Site in accordance with Omnipoint's application and the plans and specifications as presented at the hearings before the Board, except as modified by agreement to construct, install and/or paint the stealth chimneys so that their appearance and color are reasonably consistent with the facing on the rest of the building at the Site.

2. The Parties further stipulate and agree that there is no just cause for delay in the issuance of the special permit pursuant to this Agreement for Judgment, that further meetings,

hearings or decisions would serve no useful purpose, and that the zoning relief necessary to permit the installation and operation of Omnipoint's WCF shall be ordered by the Court consistent with Omnipoint's application, the plans and specifications Omnipoint presented to the Board, and this Agreement for Judgment. Further, the Parties stipulate and agree that this Agreement for Judgment and the Judgment to be entered in this action pursuant to it shall operate as a grant of the requested special permit thereof without the necessity of further action on the part of either the Board or Omnipoint.

3. This Agreement for Judgment fully and completely resolves all of Omnipoint's pending claims against the Defendants with respect to Omnipoint's proposed WCF at the Site, but shall have no effect on either party with respect to any future applications for zoning relief in other locations in Bedford or on any litigation which may arise out of any such future applications.

4. The Parties acknowledge and agree that they have entered into this Agreement on the advice of counsel, voluntarily, and not as a result of any promise or representation except as set forth expressly herein and in Omnipoint's application, plans and specifications, and not as a result of any duress or coercion by any person or entity. Defendants expressly deny any liability to Omnipoint Holdings, Inc., or that they have violated the Federal Telecommunications Act of 1996, 47 U.S.C. §332(c).

5. This Agreement has been deemed to be made and entered into in the Commonwealth of Massachusetts, and shall in all respects be interpreted, enforced and governed under federal law.

6. This Agreement and the Judgment filed herewith constitute the entire agreement of the Parties, and it is expressly agreed that this Agreement may not be altered, amended, modified or otherwise changed in any respect, except by a writing duly executed by all of the Parties.

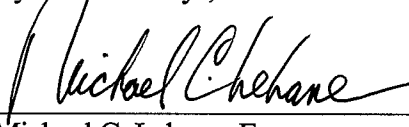
7. This Agreement shall inure to the benefit of, and be binding upon, the Parties to this Agreement and each of their officers, directors, shareholders, trustees, beneficiaries, insurers, agents, employees, attorneys, predecessors, successors and assigns.

9. This Agreement may be executed in counterparts, each of which shall be treated as an original.

Respectfully submitted,  
OMNIPOINT HOLDINGS, INC.  
By its attorneys,

  
\_\_\_\_\_  
William A. Worth, Esq.,  
BBO #544086  
Ricardo M. Sousa, Esq.,  
BBO # 565043  
Prince, Lobel, Glovsky & Tye LLP  
585 Commercial Street  
Boston, MA 02109-1024  
Tel: (617) 456-8000  
Fax: (617) 456-8100

Respectfully submitted,  
THE TOWN OF BEDFORD, et al.  
By their attorneys,

  
\_\_\_\_\_  
Michael C. Lehan, Esq.  
BBO #292520  
Doris MacKenzie Ehrens, Esq.  
BBO #544252  
Murphy, Hesse, Toomey & Lehan, LLP  
300 Crown Colony Plaza, Suite 410  
Quincy, MA 02269-1923  
Tel: (617) 479-5000  
Fax: (617) 479-6469

Date: April 11, 2005